IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 23372 of 2004

Between:

K.Ravi Deva Raju, S/o.K.Kotaiah, Retd.Passenger Driver,

S.C.Rly., R/o.Dr.No.3-1-2/1, Nunipalli Tirupataiah Street,
Rayakpet, Tenali.

..... PETITIONER

AND

1. UOI rep.by the Chairman, Railway Board,

Rail Bhavan, New Delhi.

2. General Manager, 3rd floor, Rail Nilayam,

South Central Railway, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of Mandamus or any other appropriate writ or order or direction in O.A.No.951 of 2004 dated 29-11-2004, on the file of Central Administrative Bench, Hyderabad as illegal, arbitrary violation of rules and consequently direct the respondents to add 5 years 286 days for former military service of the petitioner to

the qualifying service rendered by him in the railways for the purpose of pension and other retirement benefits and consequently direct the respondent to pay the petitioner all consequential benefits and pass such other order or orders.

Counsel for the Petitioner: MR.G.PAVANA MURTHY

Counsel for the Respondents: MR.C.YADAGIRI, SC FOR RAILWAYS

The Court made the following:

ORDER: (Per Sri G.B,J)

The writ petition is filed assailing the order dated 29.11.2004 passed by the Central Administrative Tribunal, Hyderabad Bench in O.A.951 of 2004.

2. The petitioner prayed direction to the respondents to consider and dispose of the representation of the applicant dated 12.10.2003 in view of the Railway Board circular No.101/2001 dated 28.5.2001, which was circulated in Serial Circular No.120/2001 dated 9.7.2001. The Tribunal, however, dismissed the same on the ground that on earlier occasion he filed O.A.No.833 of 2001 and the same was dismissed on merits and therefore, the present application was barred by the principles of *Res judicata* and accordingly dismissed the same. Against the said order the present writ petition has been filed.

3. Learned counsel for the petitioner submits that in view of the changed circumstances, the Tribunal ought not to have invoked principles of *Res judicata*. Moreover, it is a case of payment of pension. For lack of knowledge of serial circular, it could not be brought before the Tribunal and therefore, the order of the Tribunal is liable to be set aside.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

5. Inasmuch as the matter relates to pension and the petitioner is seeking disposal of the representation dated 12.10.2003 in accordance with the Railway Board Circular No.101/2001 dated 28.5.2001 which was Circulated in Serial circular No.120/2001, we find that the writ petition can be disposed of with a direction to the authorities to

dispose of the representation.

6. Accordingly, the writ petition is disposed of directing the authorities to dispose of the petitioner's representation dated 12.10.2003, if not already disposed, within a period of two months from the date of receipt of a copy of this order. No costs.

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G.BIKSHAPATHY,J

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P.S.NARAYANA,J

Date: 16th December 2004

BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Chairman, UOI Railway Board,

Rail Bhavan, New Delhi.

2. The General Manager, 3rd floor, Rail Nilayam,

South Central Railway, Secunderabad.

3. The Registrar, Central Administrative Tribunal, Hyderabad Bench at

Hyderabad.

4. Two CD copies